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U.S. DISTRICT COURT  
DISTRICT OF NEW MEXICO  
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*Robert M. ...*  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
MONK'S INC., d/b/a )  
INTERNATIONAL HOUSE OF )  
PANCAKES, )  
 )  
Defendant. )  
\_\_\_\_\_ )

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CIV  
COMPLAINT  
JURY TRIAL  
**WILLIAM W. DEATON**

NATURE OF THE ACTION

This is an action under the Americans with Disabilities Act of 1990 (ADA) and the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Scott Staffeldt who was adversely affected by such practices. The Commission alleges that defendant Monks, Inc., d/b/a International House of Pancakes, in Las Cruces, discriminated against Mr. Staffeldt when it denied him a reasonable accommodation and discharged him from his employment because of his disabilities. In addition, defendant failed to preserve records relevant to the determination of whether unlawful employment practices have occurred.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343

and 1345. This action is authorized and instituted pursuant to Title I Section 107(a) of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. §12117(a), which incorporates by reference Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §2000e-5(f)(1) and (3), and pursuant to §102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

2. The employment practices alleged below to be unlawful were committed within the jurisdiction of the United States District Court for the District of New Mexico.

### **PARTIES**

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is an agency of the United States of America charged with the administration, interpretation, and enforcement of Title I of the ADA and is expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C. §12117(a), which incorporates by reference Section 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).

4. At all relevant times to this action, defendant, Monk's Inc., d/b/a International House of Pancakes (the "Employer", "Monk's", or "IHOP") has continuously been a New Mexico corporation doing business in the State of New Mexico and the City of Las Cruces and has continuously had at least 15 employees.

5. At all relevant times to this action, defendant employer has continuously been an employer engaged in an industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. §12111(5), and Section 101(7) of the ADA, 42 U.S.C. §12111(7), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. §§2000e(g) and (h).

6. At all relevant times, defendant employer has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. §12111(2).

### **STATEMENT OF CLAIMS**

7. More than thirty days prior to the institution of this lawsuit, Scott Staffeldt filed a charge

with the Commission alleging violations of Title I of the ADA by Monk's. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least May 23, 1996, defendant Monk's engaged in unlawful employment practices at its Las Cruces, New Mexico, facility by denying Scott Staffeldt reasonable accommodations and discharging him because of his disabilities in violation of Section 102(a) of the ADA, 42 U.S.C. §12112(a).

9. Since at least May 23, 1996, Monk's has failed, in violation of Section 107(a) of the ADA, 42 U.S.C. §12117(a), which incorporates by reference Section 709(c) of Title VII, 42 U.S.C. §2000e-8(c) and 29 C.F.R. §1602.14, to preserve records relevant to the determination of whether unlawful employment practices have been or are being committed.

10. The effect of the practices complained of in paragraph 8 above has been to deprive Scott Staffeldt of equal employment opportunities and otherwise adversely affect his status as an employee because of his disability.

11. The unlawful employment practices complained of in paragraphs 8 and 10 above were intentional.

12. The unlawful employment practices complained of in paragraphs 8 and 10 were done with malice or with reckless indifference to the federally protected rights of Scott Staffeldt.

**PRAYER FOR RELIEF**

**WHEREFORE**, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining defendant Monk's Inc., d/b/a IHOP, its officers, successors, assigns and all persons in active concert or participation with it, from unlawfully denying qualified individuals with disabilities reasonable accommodations, terminating their employment because of their disabilities, and any other employment practice which discriminates on the basis of disability.

B. Order Monk's to make and preserve all records relevant to the determination of whether

unlawful employment practices have been or are being committed, in accordance with Section 107(a) of the ADA, 42 U.S.C. §12117(a), which incorporates by reference Section 709(c) of Title VII, 42 U.S.C. §2000e-8(c) and 29 C.F.R. §1602.14.

C. Order Monk's to institute and carry out policies, practices, and programs which provide equal employment opportunities for qualified individuals with disabilities, and which eradicate the effects of its past and present unlawful employment practices.

D. Order Monk's to make whole Scott Staffeldt, by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to, rightful-place reinstatement of Scott Staffeldt.

E. Order Monk's to make whole Scott Staffeldt by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 8 and 10 above, including but not limited to, job search expenses and medical expenses, in amounts to be determined at trial.

F. Order Monk's to make whole Scott Staffeldt by providing compensation for past and future nonpecuniary losses resulting from the unlawful employment practices complained of in paragraphs 8 and 10 above, including but not limited to, emotional pain, suffering, inconvenience, loss of enjoyment of life, loss of self-esteem, loss of self-confidence, and humiliation, in amounts to be determined at trial.

G. Order defendant Monk's Inc., d/b/a IHOP to pay Scott Staffeldt punitive damages for its malicious and reckless conduct, as described above, in amounts to be determined at trial.

H. Grant such further relief as the Court deems necessary and proper in the public interest.

I. Award the Commission its costs of this action.

**JURY TRIAL DEMAND**

The Commission requests a jury trial on all questions of fact raised by its Complaint.

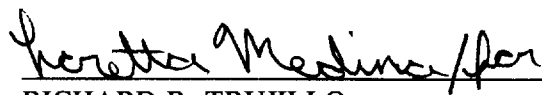
DATED this 3rd day of February, 1999

Respectfully submitted,

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